

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

RATE ADJUSTMENT DUE TO EXTRAORDINARY OR
EXCEPTIONAL CIRCUMSTANCES

Docket No. R2013-11R

**REPLY COMMENTS OF THE
NEWSPAPER ASSOCIATION OF AMERICA**
(July 6, 2015)

The Newspaper Association of America (“NAA”)¹ hereby submits these reply comments on Order No. 2540 and the remand in this proceeding.

In *Alliance of Nonprofit Mailers v. Postal Regulatory Commission*, No. 14-1009 (Slip Op. June 5, 2015) (“ANM”), the Court vacated and remanded to this Commission the “count once” method that it had used to calculate the volume of market-dominant mail volume lost “due to” the 2007-2009 recession. That issue is narrow and straightforward. Now, five years after this case began -- and six years after the recession ended -- it is time to bring it to a close. NAA urges the Commission to act swiftly to respond to the Court in a way that will lead to a prompt removal of the surcharge.

Newspapers understand the challenges the Postal Service has faced from the recession; adjusting to adverse market conditions is something all businesses must do. Newspapers, perhaps as much or more than any

¹ NAA represents the interests of nearly 2,000 newspapers in the United States and Canada. Its members account for nearly 90 percent of the daily newspaper circulation in the United States and a wide range of non-daily U.S. newspapers. NAA members use all classes of mail, but primarily use the Postal Service for the delivery of advertising inserts to non-newspaper subscribers and solo direct mail campaigns via Standard mail.

businesses, have had to undergo wrenching changes to adjust to dramatically changed market conditions. These have included adjusting to market disruptions through reducing production and staff costs while exploring new business models. Newspapers as private businesses with no legal monopoly and no captive customers cannot impose exigent surcharges in order to maintain some pre-recession level of “net contribution” or profitability.

Price regulation of market-dominant postal products serves as a substitute for the pressures of market pricing faced by private firms. It exists to protect mailers of market-dominant products from exorbitant rates. In the Postal Accountability and Enhancement Act, Congress chose to rely primarily on price caps to regulate postal prices and provide mailers with rate predictability. In return, Congress provided the Postal Service with substantial rate flexibility for competitive products.

In Order No. 1926, which *ANM* affirmed except for the “count once” issue, this Commission recognized the primacy of the inflation cap system of rate regulation:

The price cap is the centerpiece of the PAEA’s regulatory paradigm. The exigent rate provision in section 3622(d)(1)(E) is a narrow exception to the price cap.

Order No. 1926, at 28 (Dec. 24, 2013). The Postal Service’s request for up to \$11.431 billion more in net contribution, five times the \$2.766 billion previously authorized in Order No. 1926, is simply a request by the Postal Service to operate outside the price cap set by Congress. The exigency provision is – and should continue to be -- a limited opportunity based on specific “exceptional or

extraordinary events,” not a well to which the Postal Service can return to draw upon.

For the foregoing reasons, the Newspaper Association of America urges the Commission to end the current surcharge as promptly as possible, and to restore price caps, not exigency exceptions, as the primary means of regulating market-dominant postal products as Congress intended.

Respectfully submitted,

Newspaper Association of America

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